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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 6th June 2009

No. 5148—li/1(J)-17/2008 (Pt.)-LE.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 28th March 2009 in Industrial Dispute Case No. 8/2008 of the Presiding Officer, Labour Court, Jeypore, Koraput to whom the industrial dispute between the Managements of (1) Executive Officer, Jeypore Municipality, Jeypore, (2) Chairman, Jeypore Municipality, Jeypore, Dist. Koraput and its workman Shri Mrutunjaya Padhi, represented through General Secretary, Jeypore Municipal Employees Union, At/P. O. Jeypore, Dist. Koraput was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE COURT OF THE PRESIDING OFFICER, LABOUR COURT
JEYPORE, KORAPUT

INDUSTRIAL DISPUTE CASE NO. 8 OF 2008
Dated the 28th March 2009

Present:

Shri P. K. Jena, o.s.j.s. (Jr. Branch),
Presiding Officer, Labour Court, Jeypore, Dist. Koraput.

Between:

1. The Executive Officer,
Jeypore Municipality, At/P. O. Jeypore,
Dist. Koraput. . . First Party—Managements
2. The Chairman, Jeypore Municipality,
At/P. O. Jeypore, Dist. Koraput.
Versus

Its Workman Shri Mrutunjaya Padhi, . . . Second Party—Workman
Represented through the General
Secretary, Jeypore Municipal
Employees Union, At/P. O. Jeypore,
Dist. Koraput.

Under Sections 10 & 12 of the Industrial Disputes Act, 1947

Appearances :

For the Managements	.. None
For the Workman	.. Shri B.V. Ramana, Trade Unionist, President of Jeypore Municipality Karmachari Sangha, Jeypore, Maharanipeta.
Date of Argument	.. 20-3-2008
Date of Award	.. 28-3-2009

AWARD

The Government of Orissa in the Labour & Employment Department in exercise of the powers conferred upon them under sub-section (5) of Section 12, read with Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), have referred the following disputes vide their Order No. 8435—(5) li/1 (J)-17/2008-LE., dated the 5th August 2008 for adjudication of the following disputes :—

SCHEDULE

“Whether the action of the Executive Officer, Jeypore, dated the 25th October 2005 of Jeypore Municipality, Jeypore in awarding punishment to Shri Mrutunjaya Padhi is legal and/or justified ? If not, to what relief the workman is entitled ?”

2. The short case of the second party-workman is that, he was suspended from the 20th January 2000 till the 21st April 2001 by the first party-managements while he was serving under the Jeypore Municipality. As per the allegation of the workman, he was appointed as a Lab. Attendant and worked in different Sections, i.e. Homeo Dispensary, Engineering Section, Octroi, etc., by the first party-management. During tenure of his service he was asked by the management to collect Holding Tax from Circle No. 5 vide Order, dated the 29th December 1999. When the workman was transferred to Engineering Section on the 18th January 2000 on receipt of the said Order, dated the 19th January 2000, he did not agree to hand over the charge and on his approach before the Executive Officer, Jeypore Municipality, he was rebuked and was placed under suspension. Again as per the verbal order the workman handed over the charge and joined in the Engineering Section on the 22nd January 2000. Subsequently the workman was reinstated vide Order, dated the 21st April 2001. The Health Officer who was the Enquiring Officer, after enquiry exonerated Shri Padhi from all four (4) charges levelled against him. But after one year of enquiry report, the workman was awarded the following punishment, i.e. No. 1, he was excused for the first time with warning not to commit such type of mistake in future, No. 2, the period of suspension is treated as such. As per the claim of the workman, he was awarded the punishment illegally and accordingly he

submitted the review petition before the Chairman as well as Director of Municipality Administration to allow the period of suspension as on duty with all benefits, but he did not get any justice. Accordingly to him the punishment inflicted upon him is not legal and justified. After failure of conciliation proceeding by the District Labour Officer, Jeypore the matter was referred to this Court for adjudication by the Labour & Employment Department.

3. In spite of notice receipt from the Court, the managements neither appeared nor filed any W. S. for which they are set *ex parte*.

4. The second party-workman in support of his case has examined himself as W. W. No. 1. According to him though he has been designated as a Peon of Jeypore Municipality but he was doing work in charge of Zamadar of Ward No. 22. According to him he has not been supplied the records of charge in which allegation was made against him. In course of hearing he has submitted the application for supplying of records to him under Ext. 1. He further stated that on the 19th January 2001 he received transfer order regarding transfer from Tax Section to Development Section of Jeypore Municipality vide Ext. 2. He also received suspension order on the 28th January 2000 after joining in Development Section. It is also his evidence that no allegation has been made against him while he was working under the Tax Section. During that period, he was also working in Homeo Dispensary Section for about ten (10) years and no complains have been received against him by them. He has specifically stated that no charges have been proved against him as per the report of the Enquiry Officer. He proves Ext. 3 to be said enquiry report submitted by the Health Officer (so-called as Enquiry Officer) of Jeypore Municipality. As per his evidence no show cause notice was issued to him by the Authority, but whimsically, Chairman, Jeypore Municipality has given punishment to him being executed by the Executive Officer, Jeypore Municipality under Ext. 4. He has prayed to this Court to set aside the Order, dated the 25th October 2005 passed by the Executive Officer, Jeypore in order to get his differential duty pay. The sole oral testimony of the workman has not been challenged in any manner by the managements. Further no sufficient opportunity has been given to the workman at the time of awarding of punishment to him by the Authority. Further on perusal of Ext. 3 available in the case record, it is found that the Enquiring Officer, in his report submitted before the Executive Officer, Jeypore Municipality has given his finding that the four (4) charges levelled against the second party-workman have not been proved.

5. So basing on the unchallenged testimony of the workman coupled with documentary evidence under Ext. 3, it is concluded that the action of the managements, dated the 25th October 2005 in awarding punishment to the workman Shri Padhi is illegal and unjustified. Inview of the report of the Enquiring Officer (so-called as Health Officer), Jeypore Municipality since the charges levelled against the workman have not been proved, so he is entitled to get relief as prayed for.

ORDER

In the result the reference is answered according and the order passed by the management is set aside and the management is directed to pay the duty pay and allowances for the period from the 20th January 2000 to the 21st April 2001 to the workman by deducting the amount already paid to him.

Dictated and corrected by me.

P. K. JENA
28-3-2009
Presiding Officer
Labour Court, Jeypore.

P. K. JENA
28-3-2009
Presiding Officer
Labour Court, Jeypore.

By order of the Governor
K. C. BASKE
Under-Secretary to Government